

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4121-02
BILL NO.: HB 1747
SUBJECT: Health Care; Hospitals; Medical Procedures
TYPE: Original
DATE: February 20, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$979,210)	(\$1,148,983)	(\$1,178,091)
Insurance Dedicated	\$15,050	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$964,160)	(\$1,148,983)	(\$1,178,091)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Federal	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0

***Revenues and expenditures of less than \$100,000 annually are expected and net to \$0.**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation**, the **Department of Conservation**, the **Department of Economic Development - Division of Professional Registration**, and the **Department of Public Safety - Missouri State Highway Patrol** assume this proposal would not fiscally impact their agencies.

Department of Health (DOH) officials state that DOH must be notified of complaints made by employees against hospitals and ambulatory surgical centers (ASC's). DOH assumes this is to be by correspondence. There would also be a follow-up report requirement for DOH regarding data submitted from each hospital and ASC. DOH estimates there would be as much as 300 complaints per year and would require at least four (4) FTE total; one Health Program Representative III and one Clerk Typist II to collect, file and prepare a report as required, one Health Facility Consultant I and one Health Facility Nursing Consultant would investigate the complaints that are not appropriately investigated by the facility or need further investigation. DOH states they would review corporate compliance programs to determine they meet requirements of this proposal. This would require two FTE total; Health Program Representative III to review submitted compliance programs and a Clerk Typist II to file and submit letters of approval or correction. DOH states they would provide a training course to train unlicensed staff to meet minimum competency requirements in hospitals and ASCs. Hospitals and ASCs would submit to DOH the training program used to train unlicensed patient care staff. The training course would be prepared in collaboration with the DOH and the TAC. By 12/31/00 DOH would obtain information on the methodology that each hospital and ASC uses to assure adequate licensed registered nurses to supervise sufficient licensed and ancillary nursing personnel to meet the needs of the patients in accordance with accepted standards of nursing practice. DOH would provide technical support for a "Technical Advisory Committee (TAC) on the Quality of Patient Care and Nursing Practices" to develop specific recommendations to improve patient care and insure licensed nurses function knowledgeably and professionally in hospitals and ASCs. The TAC would receive other tasks from the legislature or based on its own direction. The performance of all these duties would require at least four (4) FTE in addition to the two DOH employees who are members of the nine-member TAC. The Health Program Representative III would review plans and collect data, plus provide support for the TAC. The Health Facility Nursing Consultant would assist the TAC plus assess plans for patient care by licensed and ancillary nursing staff and other general functions required by this proposal. The Clerk Typist II and a Clerk Stenographer II would support the DOH staff in the new functions and the TAC. The Clerk-Steno II would specifically provide minutes for the TAC plus other clerical duties. The TAC would meet once per month for a two-day session. The new FTE would assist the TAC in required report preparation to the Governor and the Legislature. DOH ASSUMPTION (continued)

would review each medical facility's blood-borne pathogen exposure control plan and an annual update. DOH would review medical facility's policies for needlestick injuries in accordance with OSHA standards. DOH estimates there are approximately 6,400 medical facilities. To carry the review functions would require six (6) FTE to perform the review of the plans. These would include two (2) Health Facility Nursing Consultants and four (4) Health Program Representative III's.

Department of Insurance (INS) officials state that they anticipate that current appropriations and staff would be able to absorb the work for implementation of this proposal. However, if additional proposals are approved during the legislative session, INS may need to request an increase in appropriations due to the combined effect of multiple proposals.

INS states there are 259 health insurers and 30 HMOs that offer health insurance coverage. INS states that of the health insurers, many offer coverage through out-of-state trusts which are not typically subject to such mandates. INS estimates that 171 health insurers and 30 HMOs would each submit one policy form amendment resulting in revenues of \$10,050 to the Insurance Dedicated Fund. INS estimates there would be approximately 100 property and casualty insurers that write some type of medical insurance coverage that would be affected by this proposal (100 x \$50 = \$5,000). INS estimates a total increase in revenue as a result of this proposal would be \$15,050.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state that part of this proposal would require insurers, health maintenance organizations, domestic health services corporations, and the medical assistance program coverage for devices for needlestick safety. HCP feels the fiscal impact of this proposal would be very minimal.

Department of Social Services - Division of Aging (DOA) officials anticipate there would be no fiscal impact for the DOA - Home and Community Services as this proposal does not pertain to programs or services offered by Home and Community Services.

DOA - Institutional Services (IS) state the majority of costs related to this proposal would be estimated by the Department of Health. IS states the Department of Health is specified as the state agency responsible for collecting and reviewing the blood-borne pathogen exposure control plan on an annual basis and reporting back to the General Assembly and Governor. IS believes the review of policies and procedures related to the use of the blood-borne pathogen exposure control plan and its' compliance to the standards promulgated by the federal Occupational Safety and Health Administration (OSHA) can be added to the annual state licensure inspection and/or federal survey process(es). IS states that currently this authority is in the Health Care Financing ASSUMPTION (continued)

Administration's (HCFA) Interpretive Guidelines that allow the state survey agencies to cite a

facility but only if a problem is found. HCFA and OSHA have not been requiring state survey agencies to specifically determine compliance with OSHA's standards. OSHA has indicated state agencies should refer to OSHA issues to be investigated under their standards. Therefore, if this proposal establishes the OSHA standards as a state licensing requirement IS anticipates on average an additional six hours of inspection time per facility. IS states the additional time would be spent informing facilities of the new needle safety technology requirement, reviewing policies and procedures, determining facility compliance with their established policies, investigating any concerns, and if necessary, determining the scope and severity of problems discovered at the facility, writing deficiencies, and following-up on facility corrective action. IS would need an additional two (2) Facility Advisory Nurse II positions to ensure adequate staff to complete this additional inspection process (570 facilities x 6 hours additional inspection time = 3,420 hours / 1,840 hours per FTE). The positions would be located one each in the Kansas City and St. Louis regional offices. IS assumes that FY2001 costs would be based on the three month period from April 1 through June 30, 2001. FY2002 and FY 2003 costs include a three percent inflation adjustment for expense and equipment and a two and one-half percent adjustment for personal services.

Officials from the **University of Missouri Hospitals and Clinics, Barton County Memorial Hospital, Cass Medical Center, Cooper County Memorial Hospital, Excelsior Springs Medical Center, Lincoln County Memorial Hospital, Pemiscot Memorial Hospital, Phelps County Regional Medical Center, Ray County Memorial Hospital, Samaritan Memorial Hospital, and Ste. Genevieve County Memorial Hospital** did not respond to our fiscal impact request.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

Costs - Department of Health

Personal services (16 FTE)	(\$540,911)	(\$665,587)	(\$682,227)
Fringe benefits	(\$166,330)	(\$204,668)	(\$209,785)
Expense and equipment	(\$249,048)	(\$216,709)	(\$222,466)
Total <u>Costs</u> - Department of Health	(\$956,289)	(\$1,086,964)	(\$1,114,478)

Costs - Department of Social Services -

Division of Aging

Personal services (.92 FTE)	(\$9,969)	(\$40,873)	(\$41,895)
Fringe benefits	(\$3,065)	(\$12,568)	(\$12,883)
Expense and equipment	(\$9,887)	(\$8,578)	(\$8,835)
Total <u>Costs</u> - DOS - Division of Aging	(\$22,921)	(\$62,019)	(\$63,613)

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$979,210)</u>	<u>(\$1,148,983)</u>	<u>(\$1,178,091)</u>
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INSURANCE DEDICATED FUND

<u>Income - Department of Insurance</u>			
Filing fees	<u>\$15,050</u>	<u>\$0</u>	<u>\$0</u>

ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>\$15,050</u>	<u>\$0</u>	<u>\$0</u>
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FEDERAL FUNDS

<u>Income - Department of Social Services- Division of Aging</u>			
Medicaid reimbursements	\$25,189	\$71,314	\$73,140

<u>Costs - Department of Social Services - Division of Aging</u>			
Personal services (1.08 FTE)	(\$11,703)	(\$47,982)	(\$49,182)
Fringe benefits	(\$3,599)	(\$14,754)	(\$15,123)
Expense and equipment	<u>(\$9,887)</u>	<u>(\$8,578)</u>	<u>(\$8,835)</u>
Total <u>Costs</u> - DOS - Division of Aging	<u>(\$25,189)</u>	<u>(\$71,314)</u>	<u>(\$73,140)</u>

ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Small hospitals may be fiscally impacted to the extent they would incur additional administrative costs as a result of the requirements of this proposal.

DESCRIPTION

This proposal would require hospitals and ambulatory surgical centers, licensed by the Department of Health, to establish and implement a written policy concerning employees who report facility mismanagement or violations of applicable laws concerning the quality of patient care, patient safety, facility safety, fraud, and employee performance of assigned job duties. In its main provisions, the proposal would: (1) prohibit supervisors and persons in authority at hospitals or ambulatory surgical centers from prohibiting employees from disclosing information pertaining to facility mismanagement or other violations; (2) prohibit supervisors and persons in authority at hospitals or ambulatory surgical centers from threatening to use supervisory authority in order to discriminate, penalize, or retaliate against employees who acted in good faith to report mismanagement or other violations; (3) require hospitals and ambulatory surgical centers to establish a reporting process for claims of mismanagement or suspected violations and requires training and continuing education for employees in reporting violations; (4) require designation of a single person and an alternate person to be responsible for administering the reporting process and require that the reporting process facilitate and encourage employees to freely and directly communicate with the designated person; (5) contain a 48-hour time frame in which the designated person must notify an employee of the receipt of a report. Anonymous reports would be excluded from this requirement; (6) contain provisions concerning the maximum time frame in which an investigation must be completed; requiring a hospital or ambulatory surgical center to notify the department of the initiation and disposition of an investigation; reporting requirements; informing an employee of the findings of an investigation; maintaining the confidentiality of an employee and patient; and maintaining the integrity of the data, information, and medical records; (7) require that copies of the policy and reporting process be included with the hospital's and ambulatory surgical center's licensure documentation; (8) make it a rebuttable presumption that hospitals and ambulatory surgical centers would be in compliance if they have a corporate compliance program which complies with the reporting standards established by the Office of the Inspector General of the U.S. Department of Health and Human Services; (9) contain a penalty provision for hospitals and ambulatory surgical centers who do not establish a policy and a reporting process; (10) require all personnel providing patient care in hospitals and ambulatory surgical centers to demonstrate competency and prohibits such facilities from assigning personnel who lack the training and education to perform professional nursing functions; (11) require hospitals and ambulatory surgical centers to establish a training program with measurable minimal training outcomes for all unlicensed staff who provide patient care by July 1, 2001; (12) require that the department collaborate with the DESCRIPTION (continued)

Technical Advisory Committee on the Quality of Patient Care and Nursing Practices in order to develop recommendations for the standardized minimal training requirements and to report such recommendations to the Speaker of the House of Representatives and the President Pro Tem of the Senate by December 31, 2002; (13) require hospitals and ambulatory surgical centers to develop a methodology to ensure that adequate staffing levels of licensed registered nurses and

ancillary nursing personnel are on duty at each nursing unit in accordance with accepted standards of nursing practice; (14) establish the Technical Advisory Committee on the Quality of Patient Care and Nursing Practices within the department and specifies the composition and duties of the committee; (15) require medical facilities to complete a Blood-borne Pathogen Exposure Control Plan by December 31, 2001, which would be reviewed annually after December 31, 2001; (16) require medical facilities to adopt needle safety technology and specifies factors that must be considered in the adoption; (17) require the appropriate state regulatory body to use the standards of the Occupational Safety and Health Administration when reviewing the policies of medical facilities which must adopt the needle safety technology and complete the Blood-borne Pathogen Exposure Plan; (18) require insurers, health maintenance organizations, domestic health services corporations, and the Medical Assistance Program to provide in their contracts for coverages that devices for needlestick safety are medically necessary and a covered expense. This provision would apply to policies or contracts of coverage issued or renewed after January 1, 2001; (19) require the department, in collaboration with the Technical Advisory Committee on the Quality of Patient Care and Nursing Practices, to issue an annual report beginning February 1, 2002, on the use of needle safety technology to the Governor, the Speaker of the House of Representatives, and the President Pro Tem of the Senate; (20) require the department to annually determine the number of hospitals and ambulatory surgical centers with a corporate compliance plan and the number of medical facilities with a needlestick injury prevention program; and (21) require the department to develop regulations in order to implement the proposal's provisions.

This legislation is not federally mandated, would not duplicate any other program and would require additional capital improvements or rental space.

SOURCES OF INFORMATION

MPW:LR:OD:005 (9-94)

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Department of Health
Department of Social Services
Missouri Consolidated Health Care Plan
Department of Transportation
Department of Public Safety
Missouri State Highway Patrol
Department of Conservation
Department of Insurance
Department of Economic Development
Division of Professional Registration

NOT RESPONDING: University of Missouri Hospitals and Clinics, Barton County Memorial Hospital, Cass Medical Center, Cooper County Memorial Hospital, Excelsior Springs Medical Center, Lincoln County Memorial Hospital, Pemiscot Memorial Hospital, Phelps County Regional Medical Center, Ray County Memorial Hospital, Samaritan Memorial Hospital, Ste. Genevieve County Memorial Hospital

A handwritten signature in black ink, appearing to read "Jeanne Jarrett".

Jeanne Jarrett, CPA
Director
February 20, 2000